

REMARKS

Following entry of the above claim amendments, claims 1, 2, 4, 5, 10-14, 17-22, and 25-28 remain in prosecution. Claim 3 is herein cancelled. Claims 6-9, 15, 16, 23, 24, and 29 were withdrawn from consideration as being directed to a nonelected invention, and are herein cancelled without prejudice.

Rejections under 35 USC §112

Claims 10, 17, and 19 were rejected under 35 USC §112, Second Paragraph, in that it was not clear how "aspartic acid residue" and "asparigine residue" comprise an amino acid sequence. Applicant believes that the Examiner is mistaken with respect to this rejection as it applies to claim 19, and that claim 25 was intended. Accordingly, to address the rejection, Applicant herein amends claims 10, 17, and 25 to recite that the aspartic acid residue or asparigine residue forms part of an amino acid sequence selected from the group consisting of Asn-Gly, Asn-Ser, Asp-Gly, and Asp-Ser. Support for such amendments can be found throughout the specification and particularly at page 8, lines 1-7. Applicant now submits that this rejection is overcome.

Claims 1-5, 10-14, 17-22, and 25-28 were rejected under 35 USC §112, First Paragraph, as allegedly failing to comply with

the enablement requirement. Applicant respectfully traverses the rejection.

The Examiner indicated that "it is well recognized in the art that clinical results on patients do not reflect the results of animal models." and that "the results of the studies on transplanted tumors in mice do not provide a reliable nexus for the treatment of a naturally arising tumor in a patient". Applicant respectfully disagrees. Although Applicant presents data in mice, it is well known that this model has been used by others and that the therapeutic results obtained with the animal (e.g., murine) model can be extrapolated to methods of treating patients encompassed by the claims. Many systems including the immune system contain common elements that would lead one skilled in the art to believe that the data shown in the present application, as well as the claims presented in the application, are capable of being extrapolated to other species, including human subjects. Accordingly, Applicants submit that the application meets the enablement requirement of 35 USC §112, and that this rejection is overcome.

Rejections under 35 USC §102

Claims 1, 2, and 5 were rejected as being anticipated by Ramakrishna and Shinitzky (Cancer Immunol. Immunother. 33:1-8 (1991)) as evidenced by Desrivieres et al. (J. Biol. Chem.

272:24702476 (1997)). Applicant respectfully traverses the rejection.

At the outset, Applicant point out that a rejection under 35 USC §102 must be made on the basis of a single reference only, and that the present rejection is improper because it relies on two references. It is well accepted in patent law that to anticipate a claim, a single reference must contain all of the elements of the claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.* 231 USPQ 81, 90 (Fed. Cir. 1986).

However, in order to expedite prosecution of the application, Applicant amends claim 1 to include the conditions recited in claim 3, and submit that such conditions are not disclosed by Ramakrishna and Shinitzky. Accordingly, Applicant submits that this reference does not anticipate the present invention as now claimed and that this rejection is overcome.

Claims 26-28 were rejected as anticipated by US Patent No. 5,298,490 to Heavner et al, as evidenced by Azorsa et al. (Blood 78:280-284 (1991)). Applicant respectfully traverses the rejection.

As mentioned above, the present anticipation rejection is improper because it relies on more than one reference. Nevertheless, in order to expedite prosecution, Applicant herein amends claim 26 to delete "fragments" and now submits that this rejection is moot.

Applicant submits that the present application and claims are now in condition for allowance, and respectfully request that a Notice of Allowance be issued.

If the Examiner has any questions concerning this application, she is encouraged to contact the undersigned attorney.

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Respectfully submitted,

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